

10/22/01
J1051 U.S. PTO

09/982835

PATENT
Attorney Docket 44921-5047-02

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BOX PATENT APPLICATION

Commissioner for Patents
Washington, D.C. 20231

DIVISIONAL PATENT APPLICATION TRANSMITTAL UNDER 37 C.F.R. 1.53(b)

This is a request for filing a Divisional patent application under 37 C.F.R. 1.53(b).

1. This application is a Divisional patent application under 37 C.F.R. 1.53(b) of pending prior application no. 09/697,149 (filed on October 27, 2000) for:

Inventor: Mark B. Rabin, Rockville, Maryland

Title: Mutations in the BRCA1 Gene

2. Papers enclosed are as follows:

306 Pages of specification including
272 Pages of Description
11 Pages of Sequence Listing
22 Pages of Claims
1 Page of abstract

3. Amendments: A preliminary amendment is enclosed (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claim in the prior application).

4. Oath or Declaration: A copy of an oath or declaration from a prior application is enclosed under 37 C.F.R. 1.63(d). The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied is considered as part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

5. Relate Back - 35 U.S.C. 120, please amend the specification by inserting before the first line the sentence:

--This is a divisional application of copending Application No. 09/697,149 (filed on October 27, 2000) which is a continuation application of Application No. 09/038,946 (filed on March 12, 1998), abandoned, all of which are incorporated herein by reference in their entirety as are all references and patents referred to in this application.--

6. **Assignment:** The prior application is assigned of record to OncorMed. Inc. (recorded on April 22, 1998 at Reel/Frame 9132/0713).

7. **Small Entity Status** is claimed and a small entity statement was filed in the prior nonprovisional application and is still proper and desired.

8. **Fee Calculation** (37 C.F.R. 1.16)

Claims For Fee Calculation				
	Number Filed	Number Extra	at Rate of	Basic Fee: 740.00
Total Claims	84 - 20 =	64	\$ 18.00 each	+ 1,152.00
Independent Claims	6 - 3 =	3	\$ 84.00 each	+ 252.00
Multiple dependent claims (if any)			\$280.00	+ 0.00
Sub-Total				= 2,144.00
Reduction by ½ for filing by a small entity				- 1,072.00
Total Filing Fee				\$1,072.00

9. **Fee Payment: No Filing Fee is being paid by check or deposit account at this time.** This application is being filed under the provisions of 37 C.F.R. 1.53(f). Applicant awaits notification from the Patent and Trademark Office of the time set for paying the filing fees.

A check in the amount of \$55.00 for payment of the one-month extension of time fee is enclosed.

10. The power of attorney in the prior application is to at least one of the registered practitioners of Morgan, Lewis & Bockius_{LLP} included in the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and all correspondence shall be addressed to that Customer Number. Please address all correspondence to Morgan, Lewis & Bockius_{LLP} at **Customer No. 009629**

11. **Petition For Extension of Time: Parent Application No. 09/697,149**

The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136(a) apply. Applicants petition for a one-month extension of time in parent application No. 09/697,149 extending the period for response from September 20, 2001 to October 20, 2001 (October 20, 2001 falling on a Saturday and this application being filed under the next business day rule on Monday, October 22, 2001).


If any extension of time is necessary for the filing of this application, including any extension in the prior application, Application No. 09/697,149 (filed October 27, 2000) for the purpose of maintaining copendency between the prior application and the present application, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to Deposit Account No. 50-0310.

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12. **Except** for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be an **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

Dated: **October 22, 2001**
Morgan, Lewis & Bockius^{LLP}
Customer No. **009629**
1800 M Street, N.W.
Washington, D.C. 20036
202-467-7000

Respectfully submitted
Morgan, Lewis & Bockius^{LLP}



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